DECISION ON ADMISSIBILITY

Case no. CH/01/8543

Nasuf ZAMETICA

against

THE FEDERATION OF BOSNIA AND HERZEGOVINA
and
THE REPUBLIKA SRPSKA

The Human Rights Chamber for Bosnia and Herzegovina, sitting as the First Panel on 7 June 2002 with the following members present:

Ms. Michèle PICARD, President
Mr. Rona AYBAY, Vice-President
Mr. Dietrich RAUSCHNING
Mr. Želimir JUKA
Mr. Miodrag PAJIĆ
Mr. Andrew GROTRIAN

Mr. Ulrich GARMS, Registrar
Ms. Olga KAPIĆ, Deputy Registrar

Having considered the aforementioned application introduced pursuant to Article VIII(1) of the Human Rights Agreement ("the Agreement") set out in Annex 6 to the General Framework Agreement for Peace in Bosnia and Herzegovina;

Adopts the following decision pursuant to Article VIII(2)(a) and (c) of the Agreement and Rules 49(2) and 52 of the Chamber's Rules of Procedure:

I.   INTRODUCTION

1.   The application was introduced on 11 December 2001. The applicant requested the Chamber to order the respondent Party, as a provisional measure, to take all necessary action to prevent his eviction from the apartment which he temporary occupies in Sarajevo, ulica Alibega Firdusa 59, until he repossesses his pre-war apartment in Foča – the Republika Srpska. On 12 December 2001 the Vice President of First Panel decided not to order the provisional measure requested.

2.   The applicant complains of a decision of the Administration for Housing Affairs of Canton Sarajevo of 21 November 2001 ordering his eviction from the apartment which he occupies. The eviction was ordered because the pre-war occupant has obtained a decision entitling him to regain possession of the apartment and terminating the applicant's temporary right to use it.

3.   The applicant stated that he can not return to his pre-war apartment in Foča but he did not submit any evidence that he requested repossession of his apartment in Foča.

II.   OPINION OF THE CHAMBER

4.   As far as the Federation of Bosnia and Herzegovina is concerned, in accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept.... In so doing, the Chamber shall take into account the following criteria: ...   (c) The Chamber shall also dismiss any application which it considers incompatible with this Agreement, manifestly ill-founded, or an abuse of the right of petition."

5.   The Chamber notes that the conclusion on the applicant's eviction was taken to allow the pre-war occupancy right holder to repossess the apartment and that the applicant has no right under domestic law to occupy the apartment. In these circumstances, the Chamber finds that the application does not disclose any appearance of a violation of the rights and freedoms guaranteed under the Agreement. It follows that the application is manifestly ill-founded, within the meaning of Article VIII(2)(c) of the Agreement. The Chamber therefore decides to declare the application inadmissible as against the Federation of Bosnia and Herzegovina.

6.   As far as Republika Srpska is concerned, in accordance with Article VIII(2) of the Agreement, "the Chamber shall decide which applications to accept.... In so doing, the Chamber shall take into account the following criteria: (a) Whether effective remedies exist, and the applicant has demonstrated that they have been exhausted ...."

7.   The Chamber finds that the applicant did not submit any evidence that he initiated proceedings before the Ministry for Refugees and Displaced Persons in Republika Srpska for the repossession of his apartment in Foča. The applicant has not shown that this remedy was ineffective and it does not appear so to the Chamber. Accordingly, the Chamber finds that the applicant has not, as required by Article VIII(2)(a) of the Agreement, exhausted the effective remedies. The Chamber therefore decides to declare the application inadmissible also as against the Republika Srpska.

III.   CONCLUSION

8.   For these reasons, the Chamber, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

(signed)   (signed)
Ulrich GARMS   Michèle PICARD
Registrar of the Chamber   President of the First Panel